



5. The Defendant, AFNI, Inc. (“AFNI”), is a Illinois business entity with an address of 404 Brock Drive, Bloomington, IL 61701, operating as a collection agency, and is a “debt collector” as the term is defined by 15 U.S.C. § 1692a(6).

**ALLEGATIONS APPLICABLE TO ALL COUNTS**

**A. The Debt**

6. The Plaintiff allegedly incurred a financial obligation (the “Debt”) to an original creditor (the “Creditor”).

7. The Debt arose from services provided by the Creditor which were primarily for family, personal or household purposes and which meets the definition of a “debt” under 15 U.S.C. § 1692a(5).

8. The Debt was purchased, assigned or transferred to AFNI for collection, or AFNI was employed by the Creditor to collect the Debt.

9. The Defendants attempted to collect the Debt and, as such, engaged in “communications” as defined in 15 U.S.C. § 1692a(2).

**B. AFNI Engages in Harassment and Abusive Tactics**

10. AFNI has placed calls to Plaintiff’s residential telephone as often as three (3) times a day in an attempt to collect the Debt. Even when Plaintiff informed her that she did not owe any money to T-Mobile and that the social security number and date of birth did not match hers, Defendant continued to call multiple times a day trying to collect on this debt.

11. AFNI has used rude and abusive language when speaking with Plaintiff on the phone. For example, in verifying the information on the account, the social security number and date of birth on the account Defendant was collecting on did not match Plaintiff’s information.

However, when Plaintiff informed Defendant of this, Defendant then became abusive and kept saying “So, you refused to verify your information.”

12. AFNI does not properly identify themselves when speaking with Plaintiff. Defendant refused to provide Plaintiff the name of the company and their physical address despite multiple requests.

**C. Plaintiff Suffered Actual Damages**

13. The Plaintiff has suffered and continues to suffer actual damages as a result of the Defendants’ unlawful conduct.

14. As a direct consequence of the Defendants’ acts, practices and conduct, the Plaintiff suffered and continues to suffer from anger, anxiety, emotional distress, fear, and frustration.

15. The Defendants’ conduct was so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

**COUNT I**  
**VIOLATIONS OF THE FDCPA 15 U.S.C. § 1692, et seq.**

16. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

17. The Defendants’ conduct violated 15 U.S.C. § 1692d(2) in that Defendants used abusive language when speaking with the consumer.

18. The Defendants’ conduct violated 15 U.S.C. § 1692d(5) in that Defendants caused a phone to ring repeatedly and engaged the Plaintiff in telephone conversations, with the intent to annoy and harass.

19. The Defendants' conduct violated 15 U.S.C. § 1692d(6) in that Defendants placed calls to the Plaintiff without disclosing the identity of the debt collection agency.

20. The Defendants' conduct violated 15 U.S.C. § 1692e(10) in that Defendants employed false and deceptive means to collect a debt.

21. The foregoing acts and omissions of the Defendants constitute numerous and multiple violations of the FDCPA, including every one of the above-cited provisions.

22. The Plaintiff is entitled to damages as a result of Defendant's violations.

**COUNT II**  
**VIOLATIONS OF THE TEXAS DEBT COLLECTION ACT**  
**TEX. FIN. CODE ANN. § 392, et al.**

23. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

24. The Plaintiff is a "consumer" as defined by Tex. Fin. Code Ann. § 392.001(1).

25. The Defendants are each a "debt collector" and a "third party debt collector" as defined by Tex. Fin. Code Ann. § 392.001(6) and (7).

26. The Defendants used abusive language when speaking with the Plaintiff, in violation of Tex. Fin. Code Ann. § 392.302(1).

27. The Defendants called the Plaintiff and failed to identify the name of the debt collection agency or the individual debt collector, with the intent to annoy and harass, in violation of Tex. Fin. Code Ann. § 392.302(2).

28. The Defendants caused a telephone to ring repeatedly, with the intent to annoy or abuse the Plaintiff, in violation of Tex. Fin. Code Ann. § 392.302(4).

29. The Plaintiff is entitled to injunctive relief and actual damages pursuant to Tex. Fin. Code Ann. § 392.403(a)(1) and (2) and to remedies under Tex. Bus. & Comm. Code § 17.62 pursuant to Tex. Fin. Code Ann. § 392.404(a).

**COUNT III**  
**INVASION OF PRIVACY BY INTRUSION INTO PRIVATE AFFAIRS**

30. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

31. The Restatement of Torts, Second, § 652(b) defines intrusion upon seclusion as, “One who intentionally intrudes...upon the solitude or seclusion of another, or his private affairs or concerns, is subject to liability to the other for invasion of privacy, if the intrusion would be highly offensive to a reasonable person.”

32. Texas further recognizes the Plaintiff’s right to be free from invasions of privacy, thus the Defendants violated Texas state law.

33. The Defendants intentionally intruded upon the Plaintiff’s right to privacy by continually harassing the Plaintiff with excessive calls to Plaintiff’s residential telephone.

34. The telephone calls made by the Defendants to the Plaintiff were so persistent and repeated with such frequency as to be considered, “hounding the plaintiff,” and, “a substantial burden to her existence,” thus satisfying the Restatement of Torts, Second, § 652(b) requirement for an invasion of privacy.

35. The conduct of the Defendants in engaging in the illegal collection activities resulted in multiple invasions of privacy in such a way as would be considered highly offensive to a reasonable person.

36. As a result of the intrusions and invasions, the Plaintiff is entitled to actual damages in an amount to be determined at trial from the Defendants.

37. All acts of the Defendants and its agents were committed with malice, intent, wantonness, and recklessness, and as such, the Defendants are subject to punitive damages.

**COUNT IV**  
**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

38. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully set forth herein at length.

39. The acts, practices and conduct engaged in by the Defendants *vis-à-vis* the Plaintiff was so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

40. The foregoing conduct constitutes the tort of intentional infliction of emotional distress under the laws of the State of Texas.

41. All acts of the Defendants and the Collectors complained of herein were committed with malice, intent, wantonness, and recklessness, and as such, the Defendants are subject to imposition of punitive damages.

**PRAYER FOR RELIEF**

**WHEREFORE**, the Plaintiff prays that judgment be entered against the Defendants:

1. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against the Defendants;
2. Statutory damages of \$1,000.00 for each violation pursuant to 15 U.S.C. § 1692k(a)(2)(A) against the Defendants;
3. Costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against the Defendants;

4. Injunctive relief pursuant to Tex. Fin. Code Ann. § 392.403(a)(1);
5. Actual damages pursuant to Tex. Fin. Code Ann. § 392.403(a)(2);
6. Remedies under Tex. Bus. & Comm. Code § 17.62 pursuant to Tex. Fin. Code Ann. § 392.404(a);
7. Statutory damages pursuant to 47 U.S.C. § 227(b)(3)(B) & (C);
8. Actual damages from the Defendants for the all damages including emotional distress suffered as a result of the intentional, reckless, and/or negligent FDCPA violations and intentional, reckless, and/or negligent invasions of privacy in an amount to be determined at trial for the Plaintiff;
9. Punitive damages; and
10. Such other and further relief as may be just and proper.

**TRIAL BY JURY DEMANDED ON ALL COUNTS**

Dated: April 18, 2011

Respectfully submitted,

By: 

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